1388.

SUPREME COURT OF THE UNITED STATES.

No. ~~100.~~ 64.

UNITED STATES, PLAINTIFFS IN ERROR,

VERSUS

TENCH RINGGOLD.

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DISTRICT OF COLUMBIA, sct.

Stile of court. At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of November, being the twenty-sixth day of same month, in the year of our Lord one thousand eight hundred and thirty-two, and of the independence of the United States the fifty-seventh.

Present: The Hon. WILLIAM CRANCH, Chief Judge,
BUCKNER THRUSTON, } Assistant Judges,
JAMES S. MORSELL, }
HENRY ASHTON, Esquire, Marshal,
WILLIAM BRENT, Clerk.

In the record of proceedings of the same court, among others are the following, to wit:

Parties. THE UNITED STATES OF AMERICA
vs.
TENCH RINGGOLD.

Be it remembered, that heretofore, to wit, on the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-two, the said United States of America, by Thomas Swann, esquire, their attorney, and the said Tench Ri ggold, by Richard Wallach, esquire, his attorney, came into the circuit court here, and with the consent of the said court, docketed this cause; and thereupon the said United States, by their attorney aforesaid, declared against the said Tench Ringgold in the manner and form following, to wit:

Appearance of parties & cause docketed by consent.

"DISTRICT OF COLUMBIA, county of Washington, to wit:

Nar. Tench Ringgold, late of the county aforesaid, gentleman, was attached to answer unto the United States of America in a plea of trespass on the case, and so forth. And whereupon the said plaintiffs, by Thomas Swann, esq. their attorney, complain, that, whereas the said defendant, on the first day of January, in the year of our Lord one thousand eight hundred and thirty, at the county aforesaid, was indebted unto the said plaintiffs in the sum of three hundred and forty-five dollars and fifty-four cents, current money, for sundry matters and articles properly chargeable in an account, as by a particular account thereof herewith into court exhibited appears; and so being indebted, the said defendant, in consideration thereof, afterwards, to wit, on the day and year aforesaid, at the county aforesaid, undertook and faithfully promised to the said plaintiffs to pay them the aforesaid sum of money when he should be thereto afterwards required.

And whereas, the said defendant, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, was indebted unto the said plaintiffs in another sum of three hundred and forty-five dollars and fifty-four cents, like money, for divers goods, wares, and merchandises by the said plaintiffs before that time sold and delivered to the said defendant, and at his special instance and request, and being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, undertook and promised to the said plaintiffs to pay them the last aforesaid sum of money when he should be afterwards thereto required.

And whereas, afterwards, to wit, on the day and year aforesaid, at the county aforesaid, in consideration that the said plaintiffs, at the like instance and request of him, the said defendant, had before that time sold and delivered to the said defendant, divers other goods, wares, and merchandises, the said defendant undertook and promised to the said plaintiffs to pay them so much money as they therefore reasonably deserved to have, when he, the said defendant, should be thereunto afterwards requested; and the said

plaintiffs in fact aver that they therefore reasonably deserved to have of the said defendant another sum of three hundred and forty-five dollars and fifty-four cents, like money, whereof the said defendant, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, had notice.

And whereas, the said defendant, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, was indebted unto the said plaintiffs in another sum of three hundred and forty-five dollars and fifty-four cents, like money, for the like sum of money by the said plaintiffs, and for the use of the said defendant, before that time paid, laid out, and expended, at the special instance and request of the said defendant, and for other money by the said plaintiffs before that time lent and advanced to the said defendant, at the special instance and request of the said defendant, and for other money by the said defendant before that time had and received, to the use of the said plaintiffs, and being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, undertook and promised the said plaintiffs to pay them the said last mentioned sum of money, when he should be thereunto afterwards required. Yet the said defendant, not regarding his said several promises and undertakings, so by him made in this behalf as aforesaid, but contriving and fraudulently intending craftily and subtily to deceive and defraud the said plaintiffs in this respect, hath not yet paid the said several sums of money, or any part thereof, to the said plaintiffs, (although so to do the said defendant was requested by the said plaintiffs on the same day and year aforesaid, and often afterwards, at the county aforesaid,) but he to do this hath hitherto refused, and still refuses, wherefore the said plaintiffs say they are injured, and have sustained damages to the value of five hundred dollars current money, and therefore they bring suit, &c.

SWANN, for plaintiffs.

Pledges, &c., John Doe and Richard Roe."

Rule plea. And thereupon, on the motion of the said United States, by their attorney aforesaid, it is ruled by the court here, that the said Tench Ringgold answer to the declaration aforesaid of the said United States, in the plea aforesaid, or judgment by the court here will be rendered against him in default thereof: and thereupon the said Tench Ringgold, by his attorney

Plea of non assumpsit. aforesaid, defends the force and injury, when, and so forth, and says, that he did not assume upon himself, in manner and form, as the said United States above against him have complained, and of this he puts himself upon the country, and the said United States, in like manner,

Issue joined. Venire. and so forth: therefore, let a jury thereon appear before the court here immediately, by whom, &c., and who neither, &c., to recognize, &c., because as well, &c.

Case submitted. And thereupon the parties aforesaid, by their attorneys aforesaid, submitted to the court here the following statement, subject to the opinion of the court as to the law upon the facts.

Statement of case. "This is an action of assumpsit, brought to recover the sum of three hundred and forty-five dollars, money of the plaintiffs, which come to the hands of the defendant as marshal of the District of Columbia. Upon the settlement of the defendant's accounts as marshal, with the treasury, he claimed an allowance and credit for the sum of eleven hundred and eleven dollars and two cents, (see account marked A,) being the amount of his poundage fees on a capias ad satisfaciendum against John Gates, at the suit of the United States, and upon which Gates was arrested by the de-

fendant as marshal, and committed to jail, and afterwards discharged by order of the President of the United States. (See statement marked B.) It is agreed that this claim was presented to the accounting officers of the Treasury before the institution of this suit, and disallowed.

We agree to submit this case to the court, on the above statement.

R. WALLACH, for defendant.
THO. SWANN, for U. States."

Account A, referred to in statement.

"United States, Dr.

June term, 1819. To cepi casa vs. John Gates: released from jail by order of the President of the U. States - - - - - -		50
Writ and return - - - - -		14
Poundage fees on first, $26 66⅔, at 7½ pr. ct.		2 00
Ditto on residue, $6,946 00 at 3 do -		1,108 38
		$1,111 02

E. E. T. RINGGOLD, M. D. C."

Statement marked B, referred to in the foregoing statement.

DISTRICT OF COLUMBIA, county of Washington, Circuit Court, December term, 1818.

UNITED STATES vs. JOHN GATES, JR.

January 5, 1819. Judgment for $65,000, current money, damages, to be released on payment of $63,597 73, or such other sum as may hereafter be certified by the accounting officers of the Treasury—costs $11 82. Upon which judgment execution (ca. sa.) was issued to June term, 1819, and returned by the marshal with the following endorsements thereon:

Certificate of 2d Auditor of amount due.

TREASURY DEPARTMENT,
2d Auditor's Office, 27 March, 1819.

I certify that on settlement of the account of John Gates, junr., late paymaster of the U. S. light artillery, on the 29th October, 1818, a balance of $36,960 was found due by him to the United States, which said balance is now standing against him on the books at this office.

WM. LEE, 2d Auditor.

Return of marshal on case.

"Cepi released, by order of the President United States, herewith returned.

T. RINGGOLD, Marshal."

President's order of discharge.

"To the marshal of the District of Columbia:

Whereas John Gates, junior, of the county of Albany, in the district of New York, is confined and held in custody in the prison aforesaid, in pursuance of a certain judgment and execution obtained at the suit of the United States: and whereas it appears to my satisfaction that the said John

Gates, junior, is unable to pay the said debt for which he is imprisoned, now, therefore, by virtue of the power and authority vested in the President of the United States by an act of Congress, passed the 3d of March, 1817, entitled "An act supplementary to an act for the relief of persons imprisoned for debts due the United States," I, James Monroe, President of the United States, do hereby authorize you to discharge from your custody, out of the prison aforesaid, the body of the said John Gates, junior.

Given under my hand, in the city of Washington, this fifth day of March, one thousand eight hundred and nineteen, and the forty-third year of the independence of the United States.

JAMES MONROE."

Whereupon all and singular the premises being, by the court here, seen, heard, and fully understood, and mature deliberation being thereupon had, for, that it appears to the court here, that the said United States are not entitled to recover upon the statement aforesaid, therefore, it is considered by the court here, that the said United States take nothing by their plea aforesaid, and that the said Tench Ringgold go thereof without day, &c.

Judgment for defend't on statem't

Test: W. BRENT, Clk.

Writ of error filed.

And whereas, afterwards, to wit, on the eighth day of February, in the year of our Lord one thousand eight hundred and thirty-three, the said United States, by their attorney aforesaid, produced and filed in court here, the United States' writ for the correcting of errors of and upon the judgment aforesaid, directed to the judges of the circuit of the District of Columbia, in the county of Washington, and in pursuance thereof, and according to the form and effect of the statute in such case made and provided, a transcript of the record of proceedings of the judgment aforesaid, and all things thereunto relating, with the writ of error aforesaid, and a copy of the appeal bond hereto annexed, is hereby transmitted to the said Supreme Court accordingly.

In testimony whereof, I hereunto subscribe my name, and affix the seal of the said circuit court for the county aforesaid, at the city of Washington, this 9th day of February, A. D. 1833.

[L. S.] W. BRENT, Clk.
Ct. Ct. Dist. Cola. cot'y of Washington.

Writ of error.

UNITED STATES OF AMERICA.—The President of the United States to the judges of the circuit court of the United States for the District of Columbia, sitting for the county of Washington, greeting:

[L. S.]

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between the United States of America and Tench Ringgold, a manifest error hath happened, to the great damage of the said United States, as by their complaint appears: we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme

Court of the United States, together with this writ, so that you have the same at Washington, on the Monday of , in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid, being inspected, the said Supreme Court may cause further to be done therein to correct that error, which of right, and according to the laws and the custom of the United States should be done.

Witness the Hon. John Marshall, Chief Justice of the said Supreme Court. Issued this 8th day of Feb'y, 1833.

W. BRENT, Clk.
Ct. ct. Dist. Colu. cot'y of Wash'n.

Citation.

UNITED STATES OF AMERICA, District of Columbia, county of Washington, sct.—To Tench Ringgold, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the Monday of , pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the District of Columbia, in the county of Washington, wherein the United States of America are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said United States, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable William Cranch, chief judge of the circuit court for the District of Columbia, this 8th day of February, A. D. 1833.

(Service acknowledged by T. Ringgold.)

Copy of appeal bond.

Know all men by these presents, that we are held and firmly bound unto Tench Ringgold in the full and just sum of two hundred dollars, current money, to be paid to the said Tench Ringgold, his certain attorney, executors, administrators, or assigns, to which payment well and truly to be made and done, we bind ourselves, our heirs, executors and administrators, jointly and severally firmly by these presents; sealed with our seals, and dated this 8th day of February, in the year of our Lord one thousand eight hundred and thirty-three.

Whereas lately, at a circuit court of the United States for the District of Columbia, sitting for the county of Washington, in a suit depending in the said circuit court, wherein the said United States of America were plaintiffs, and Tench Ringgold was defendant, judgment was rendered against the said United States, and they having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation to the said Tench Ringgold, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington, on the Monday of : Now the condition of the above obligation is such, that if the said United States shall prosecute said writ to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

[SEAL.]
[SEAL.]

Signed, sealed, and delivered in the presence of.

Copy. Test: W. BRENT, Clk.